

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

EARL NATHANIEL COMBS, JR.,

Petitioner,

v.

Civil Action No. 3:23CV504 (RCY)

UNKNOWN,

Respondent.

MEMORANDUM OPINION

Petitioner, a Virginia inmate proceeding *pro se*, submitted a letter to this Court asking legal questions, indicating his intent to appeal a forthcoming decision by the Supreme Court of Virginia, and asking for an extension in which to file his “appeal.” (ECF No. 1.) By Memorandum Order entered on August 10, 2023, the Court explained that it may not provide Petitioner with legal advice. Additionally, the Court explained that Petitioner cannot appeal the decision of the Supreme Court of Virginia to this Court and therefore the Court cannot give him an extension for an appeal. Nevertheless, given the content of the letter, the Court found it appropriate to give Petitioner the opportunity to pursue this action as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. *See Rivenbark v. Virginia*, 305 F. App’x 144, 145 (4th Cir. 2008).

The Court directed Petitioner, within twenty (20) days of the date of entry thereof, to complete and return the standardized form for filing a § 2254 petition if he wished to file a petition for a writ of habeas corpus. The Court warned Petitioner that the failure to comply with the terms of the August 10, 2023 Memorandum Order would result in the dismissal of the action. *See Fed. R. Civ. P. 41(b).*

More than twenty (20) days have elapsed, and Petitioner has not completed and returned the § 2254 form. Accordingly, the action will DISMISSED WITHOUT PREJUDICE. A certificate of appealability will be DENIED.

An appropriate Order shall accompany this Memorandum Opinion

Date: September 13, 2023
Richmond, Virginia

/s/ 
Roderick C. Young
United States District Judge